

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB**

STATE OF MICHIGAN,
Plaintiff,

CASE NO. 19-2340-SM

v.

JONATHAN VANDERHAGEN

HON.

Defendant.

NICHOLAS P. SOMBERG (P80416)
SOMBERG ZIELINSKI, PLLC
Attorney for Defendant
1133 West Long Lake Rd.
Bloomfield Hills, MI 48302
C: 586.222.6849
F: 248.590.0166

**EMERGENCY APPEAL OF THE PEOPLE'S EMERGENCY BOND REVOCATION
DECISION**

The defendant, JONATHAN VANDERHAGEN, by and through his attorney, Nicholas P. Somberg, moves this Honorable Court to appeal the district court's decision to raise his bond from \$10,000 10% to \$500,000 cash or surety and restore his 10% bond or impose other reasonable conditions. We do not object to additional conditions to be placed upon him including not using Facebook or any social media or a GPS tether. This motion is made for the following reasons:

- (1) Defendant was arraigned over video-teleconference before the Honorable Ryan Zemke on July 11, 2019 for the misdemeanor charge of Malicious use of

Telecommunications Device MCL 750.540e against the complaining witness The Honorable Rachel Rancilo.

- (2) A person violating this section may be imprisoned for not more than 6 months or

fined not more than \$1,000.00, or both. *MCL 750.540e(2)*

- (3) Mr. Vandenhagen has no criminal history.

- (4) Bond conditions were never provided in-writing to Defendant but were set and

included “no personal contact, no third-party contact, and no contact or inadvertent

messages by way of Facebook or other media”.

- (5) On July 24, 2019 the people argued an emergency motion to modify Defendant’s

bond attaching several screenshots of Defendant’s Facebook posts. (Defense

Exhibit 1)

- (6) This appeal is decided on an abuse of discretion standard.

- (7) Defendant has a constitutional right to redress his grievances against the

government. The First Amendment prohibits government officials from punishing

individuals for engaging in protected speech and secures the right to petition the

government for redress of grievances. *Holeton v City of Livonia, No. 341624, 2019*

WL 2016252 (Mich Ct App, May 7, 2019)

- (8) Defendant has a grievance with friend of the court for the death of his son two years

ago and has been posting on Facebook his grievances for the last two years.

- (9) First, in their motion the people inappropriately included as Exhibit 1, a Facebook

post that was made on July 8th, prior to the imposing of bond conditions and told the

court that it was posted after the bond conditions which is was not. In this post

Defendant states he is going to “Dig up all the skeletons in this court’s closet”.

- (10) The other Exhibits (2) and (3) in the people’s motion contain no threatening or

harassing language whatsoever and are in no-way a violation of the bond condition

of “no personal contact, no third-party contact, and no contact or inadvertent

messages by way of Facebook or other media”. The do not mention Rachel

Rancilio or elude to her in any way whatsoever. The posts are clearly criticism of

Friend of the Court as a whole and have nothing to do with Judge Rancilio. The no-contact order has been complied with.

(11) Defense counsel asked what about those exhibits were threatening or violated the no contact order. The court's response was "they speak for themselves" stating nothing in the way my client violated his bond. (Transcript attached as Defense Exhibit 2)

(12) The amount of bail is largely a matter of judicial discretion. It should be fixed with consideration of the **seriousness of the offense charged**, the **previous criminal record** of the defendant and the **probability or improbability of his appearing** at the trial of the cause. 1 Gillespie, Michigan Criminal Law and Procedure (2d ed.), s 271, p. 311. *People v. Dawson*, 29 Mich. App. 488, 496, 185 N.W.2d 581, 585 (1971).

(13) Bail was raised Money bail is excessive if it is in an amount greater than reasonably necessary to adequately assure that the accused will appear when his *748 presence is required. *Stack v. Boyle*, 342 U.S. 1, 72 S.Ct. 1, 96 L.Ed. 3 (1951). *People v Edmond*, 81 Mich App 743, 747-48; 266 NW2d 640, 642 (1978)

I. Seriousness of the Offense Charged

Mr. Vanderhagen is charged with a misdemeanor offense punishable by for not more than 6 months or fined not more than \$1,000.00, or both.

II. Previous Criminal Record

Mr. Vandenhagen has no criminal record as verified by ICHAT.

III. Probability of Appearing

Mr. Vandenhagen has retained counsel and posted a \$1,000 bond. He has set this matter for a Jury Trial on September 13th, 2019 at 8:30 a.m. He fully intends on appearing and fighting this charge against him.

For all of the reasons above we ask this honorable court to immediately consider this emergency appeal regarding bond at soonest available date and restore Mr. Vandenhagen's original bond of \$10,000 10%.

Respectfully submitted,

Nicholas P. Somberg

NICHOLAS P. SOMBERG (P 80416)
SOMBERG ZIELINSKI, PLLC
1133 West Long Lake Rd.
Bloomfield Hills, MI 48302
248/270-5979//248/590-0166 fax
NickSomberg@gmail.com

DATED: July 30, 2019